

Assembly Bill No. 2633

Passed the Assembly August 31, 2006

Chief Clerk of the Assembly

Passed the Senate August 29, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 45277.5 of, and to add Sections 45266.5 and 88086.25 to, the Education Code, relating to school district employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2633, Negrete McLeod. Schools: district employees.

(1) Existing law requires school districts and community college districts adopting the merit system in existing law for classified employees to appoint a personnel commission. Existing law requires the personnel commission to appoint a personnel director of the commission who is responsible to the commission for carrying out all procedures in the administration of the classified personnel in accordance with the requirements of existing law and rules of the commission.

This bill would require the personnel commission, consistent with the commission rules applicable to all classified employees, to determine the compensation for, evaluate, and supervise the personnel director. The bill would require the personnel commission to make a biennial performance evaluation of the personnel director, thus imposing a state-mandated local program. The bill would authorize the exclusive representatives of classified employees of the applicable school or community college district and the district administration to participate in the biennial performance evaluation of the director of the personnel commission by completing an evaluation or comment form distributed by the commission. The bill would require the personnel commission to review the submitted evaluation and comment forms, if any, and would require the commission to consider them as part of the overall evaluation process. The bill would require the personnel commission to be responsible for completing the final evaluation.

The bill would grant the personnel commission the authority to impose discipline upon the personnel director if cause has been established in accordance with commission rules applicable to all classified employees. The bill, in order to ensure due process for the personnel director, would grant the personnel director the

option of requesting a hearing from an impartial hearing officer regarding disciplinary action imposed on the personnel director. The bill would require the method for selecting the hearing officer to be designated in commission rules and would bind the commission by the findings of the hearing officer. The bill would require actions taken by the personnel commission relating to the employment of the personnel director, as specified, be ratified by the governing board of the applicable school district or community college district, and would make these actions, when ratified, final and binding on the commission.

To the extent that these provisions would impose additional duties on local officials, the bill would establish a state-mandated local program.

(2) Existing law requires all vacancies in the classified service of a school district or community college district that has adopted the merit service provisions in existing law to be filled from eligible applicants in the first 3 ranks on employment eligibility lists who are ready and willing to accept the position, except as specified.

Existing law authorizes, until January 1, 2007, a school district with a pupil population of over 400,000 to make an appointment from other than the first 3 ranks of eligible applicants, as specified, if the position requires (a) the ability to speak, read, or write a language in addition to English; (b) a valid driver's license; (c) specialized licenses, certifications, knowledge, or ability; or (d) a specified gender as a bona fide occupational qualification.

This bill would extend the repeal date in existing law to January 1, 2008.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 45266.5 is added to the Education Code, to read:

45266.5. (a) The personnel commission, consistent with the commission rules applicable to all classified employees, shall determine compensation for, evaluate, and supervise the personnel director appointed pursuant to Section 45264 or contracted for pursuant to Section 45265.

(b) (1) The personnel commission shall perform a biennial written performance evaluation of the commission's personnel director.

(2) The school district administration and the exclusive representatives of classified employees of the district may participate in the biennial performance evaluation of the director of the personnel commission by completing an evaluation or comment form distributed by the commission. The personnel commission shall review the submitted evaluation and comment forms, if any, and shall consider them as part of the overall evaluation process. The personnel commission shall be responsible for completing the final evaluation.

(c) (1) The personnel commission shall have the authority to impose discipline, including dismissal, upon the personnel director if cause has been established in accordance with commission rules applicable to all classified employees. However, the commission shall not take a disciplinary action pursuant to this paragraph that is inconsistent with any collective bargaining agreement or contract that is in effect as of January 1, 2007, and under which the personnel director works.

(2) The personnel director, as a member of the classified service, shall have all the rights, benefits, and burdens of a classified employee.

(3) In order to ensure due process for the personnel director, the personnel director shall have the option of requesting a hearing from an impartial hearing officer regarding disciplinary action imposed on the personnel director. The method for selecting the hearing officer shall be designated in commission rules and the findings of the hearing officer shall be binding upon the commission.

(d) Actions taken by the personnel commission relating to the employment of the personnel director pursuant to this section shall be ratified by the governing board of the applicable school district. When ratified, these actions shall be final and binding on the commission.

SEC. 2. Section 45277.5 of the Education Code is amended to read:

45277.5. Notwithstanding Section 45277, in a school district with a pupil population of over 400,000 the following shall apply:

(a) An appointment may be made from other than the first three ranks of eligible applicants on the eligibility list if one or more of the following are required for successful job performance of a position to be filled:

(1) The ability to speak, read, or write a language in addition to English.

(2) A valid driver's license.

(3) Specialized licenses, certifications, knowledge, or ability, as determined by the school district personnel commission, that cannot reasonably be acquired during the probationary period.

(4) A specific gender if it is a bona fide occupational qualification.

(b) The recruitment bulletin announcing the examination shall indicate the special requirements that may be necessary for filling one or more of the positions in the classification. If a position is to be filled using the authority of this section, the appointment shall be made from among the highest three ranks of eligible candidates on the appropriate eligibility list who meet the special requirements of the position and who are ready and willing to accept the position.

(c) If there are insufficient applicants who meet the special requirements, an employee who meets the special requirements may receive provisional appointments which may accumulate to a total of 90 working days. Successive provisional appointments of 90 working days or less each may be made in the absence of an appropriate eligibility list containing applicants who meet the special requirements if the personnel commission finds that the requirements of subdivisions (a) and (b) of Section 45288 have been met. These appointments may continue for the period of the

provisional appointment, but may not be additionally extended if certification can later be made from an appropriate eligibility list.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 3. Section 88086.25 is added to the Education Code, to read:

88086.25. (a) The personnel commission, consistent with the commission rules applicable to all classified employees, shall determine compensation for, evaluate, and supervise the personnel director appointed pursuant to Section 88084 or contracted for pursuant to Section 88085.

(b) (1) The personnel commission shall perform a biennial written performance evaluation of the commission's personnel director.

(2) The community college district administration and the exclusive representatives of classified employees of the district may participate in the biennial performance evaluation of the director of the personnel commission by completing an evaluation or comment form distributed by the commission. The personnel commission shall review the submitted evaluation and comment forms, if any, and shall consider them as part of the overall evaluation process. The personnel commission shall be responsible for completing the final evaluation.

(c) (1) The personnel commission shall have the authority to impose discipline, including dismissal, upon the personnel director if cause has been established in accordance with commission rules applicable to all classified employees. However, the commission shall not take a disciplinary action pursuant to this paragraph that is inconsistent with any collective bargaining agreement or contract that is in effect as of January 1, 2007, and under which the personnel director works.

(2) The personnel director, as a member of the classified service, shall have all the rights, benefits, and burdens of a classified employee.

(3) In order to ensure due process for the personnel director, the personnel director shall have the option of requesting a hearing from an impartial hearing officer regarding disciplinary action imposed on the personnel director. The method for

selecting the hearing officer shall be designated in commission rules and the findings of the hearing officer shall be binding upon the commission.

(d) Actions taken by the personnel commission relating to the employment of the personnel director pursuant to this section shall be ratified by the governing board of the applicable community college district. When ratified, these actions shall be final and binding on the commission.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2006

Governor